

**This Page Is Inserted by IFW Operations  
and is not a part of the Official Record**

## **BEST AVAILABLE IMAGES**

Defective images within this document are accurate representation of  
The original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- **BLACK BORDERS**
- **TEXT CUT OFF AT TOP, BOTTOM OR SIDES**
- **FADED TEXT**
- **ILLEGIBLE TEXT**
- **SKEWED/SLANTED IMAGES**
- **COLORED PHOTOS**
- **BLACK OR VERY BLACK AND WHITE DARK PHOTOS**
- **GRAY SCALE DOCUMENTS**

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning documents *will not* correct images,  
please do not report the images to the  
Image Problem Mailbox.**

*C1d  
Cont'd  
B6  
cont*  
of the patient;

- ✓ a mouthpiece having a first passage adapted to be placed in a mouth of the patient, a second passage operably connected to said first valve, a third passage operably connected to said second valve, and a pneumotach; and
- ✓ a computer controllably connected to said first valve, said second valve, and said pneumotach;
- ✓ wherein said computer determines air flow and lung volume measurements of the patient via said pneumotach; and
- ✓ wherein said computer selectively closes said first and said second valves to suspend ventilation of the patient at a desired one of said measurements.

---

**REMARKS**

In the subject Office action, the Examiner objected to the specification and rejected all pending claims based on art. Specifically, the Examiner objected to the specification because it lacks an Abstract. Also, the Examiner rejected Claims 1 through 7, 9 through 16, and 20 under 35 U.S.C. §102(b) as being anticipated by the Rienmueller reference. The Examiner rejected Claim 8 as being unpatentably obvious over the Rienmueller reference in view of the Donaldson reference. Lastly, the Examiner rejected Claims 17 through 19 as being unpatentably obvious over the Rienmueller reference in view of the Beran reference.

Applicants herein request cancellation of Claims 2, 5, 11,13, and 16, amend Claims 1, 3, 4, 6 through 10, 12, and 15, and add new Claims 21 and 22. In the amendments, Applicants have changed the word "delivery" in Claims 3, 4, and 6

through 9 to "delivering" to correct a typographical error, and not to narrow the scope of the claims. The remaining amendments are made in response to the rejections in the subject Office action.

Objection to the Specification

Applicants have herein provided an Abstract of the disclosure as required by 37 C.F.R. §1.72(b). The abstract is fully supported by the application as originally filed and, therefore, does not constitute new matter. Accordingly, Applicants respectfully assert that this objection has been overcome and request that the Examiner remove this objection.

Claim Rejections

Applicants have herein amended independent Claims 1, 10, and 15 to indicate the inclusion of a ventilator assembly having first and second selectively operated valves. Specifically, Applicants have amended these claims to include a ventilator assembly having a first selectively operable valve adapted to control inhalation of the patient and a second selectively operable valve adapted to control exhalation of the patient. These limitations are fully supported by the application as originally filed, and therefore, do not constitute new matter. In the application, the Applicants refer to the two valve system in several places, such as in the second paragraph of the detailed description (Page 9). Furthermore, the two valve system is clearly illustrated in several of the Figures filed with the application, including Figures 1, 2, and 3.

None of the cited references disclose a two valve system adapted to suspend ventilation of patient. The Rienmueller reference discloses only a single valve 14 as illustrated in Figure 2. As amended by this Reply and Amendment, all independent claims of the pending application now include limitations that require first and second selectively operable valves. Accordingly, considering its lack of a teaching of a two valve system, Rienmueller does not disclose all limitations of any of the pending independent claims, and, thus, cannot serve as a proper basis for an anticipation rejection of these claims under §102(b). Furthermore, all of the remaining original dependent claims depend from one of the amended independent claims, and, therefore, include the added limitations. Accordingly, the Rienmueller reference also cannot serve as a proper basis for an anticipation rejection for these claims.

Accordingly, Applicants respectfully assert that the rejections under §102(b) have been overcome and request that the Examiner reconsider and withdraw these rejections.

It is not clear if the Beran reference discloses a two valve system. The Beran reference does disclose a two arm system, but the specification is not clear as to whether two valves are included in the apparatus. Furthermore, none of the Figures illustrate a dual valve system. Even if Beran is read to disclose two valves, the reference does not disclose the use of first and second selectively operable valves adapted to separately control inhalation and exhalation of a patient. The Beran reference, therefore, does not cure the defects of the Rienmueller reference.

Similarly, the Donaldson reference does not disclose a two valve system, and cannot be used to cure the defects of the Rienmueller reference.

Serial No.: 09/424,431  
Attorney Docket No.: 10546-006

Accordingly, because there is no combination of the cited references that discloses all limitations of any of the pending independent claims in this application, no combination of these references can properly serve as a basis for an obviousness rejection under §103(a). Accordingly, Applicants respectfully assert that these rejections have also been overcome and request that the Examiner reconsider and withdraw these rejections.

Applicants have added new dependent Claim 21 to further characterize the first and second valves of the apparatus defined by independent Claim 15. Further, Applicants have added independent Claim 22 to define a particularly preferred embodiment of the present invention in independent claim format. These new claims are fully supported by the application as originally filed and, therefore, do not constitute new matter. Applicants respectfully request that the Examiner consider these newly added claims.

Applicants respectfully assert that all remaining claims, including newly added Claims 21 and 22, define patentable subject matter, and request a Notice indicating such.

Serial No.: 09/424,431  
Attorney Docket No.: 10546-006

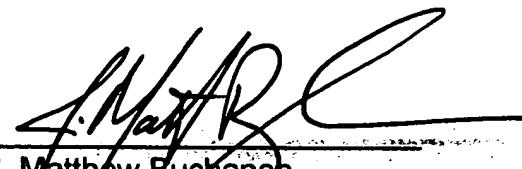
If the Examiner believes personal communication would advance this case to issuance, applicant respectfully requests that he contact his attorney at the number below.

Respectfully submitted,

Date:

26 June 2002

By:

  
J. Matthew Buchanan  
Reg. No. 47,459  
Attorney for the Applicants

BRINKS HOFER GILSON & LIONE  
P.O. Box 10395  
Chicago, IL 60610  
(734) 302-6000